

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
SECURITIES AND EXCHANGE COMMISSION, X  
X  
Plaintiff X  
X  
-against- X  
X  
JOHN MICHAEL KELLY, et al., X  
X  
Defendants. X  
-----X

08 Cv. 4612

ORDER

SHIRLEY WOHL KRAM, U.S.D.J.

WHEREAS the above-captioned case was referred to this Court on May 30, 2008, pursuant to Rule 15 of the Rules for Division of Business Among District Judges, for determination of whether it is sufficiently related to In re AOL Time Warner Securities Litigation, 02 Cv. 5755 (SWK), to merit assignment to this Court;

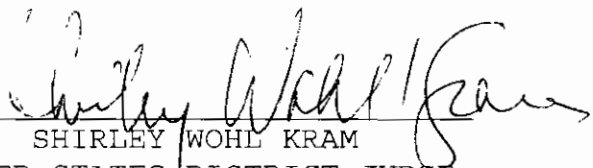
WHEREAS counsel for the defendants, in a letter dated June 2, 2008, contends that the above-captioned case should not be deemed a "related" case because the designation (a) will not promote efficiency, (b) will cause prejudice to the defendants, and (c) will preclude litigation of the case in either the District of Columbia or the Eastern District of Virginia;

WHEREAS the Court has reviewed defense counsel's submission, the Securities and Exchange Commission's June 4, 2008 response, and defense counsel's June 6, 2008 reply, and has concluded that (a) the above-captioned case arises from events

substantially similar to those at issue in the AOL Time Warner Securities Litigation; (b) the administrative designation of relatedness will not impose a risk of unfair prejudice to the defendants, see Astrea United Invs., L.P. v. Onitiri, 92 Cv. 581 (MBM), 1992 WL 346353, at \*3 (S.D.N.Y. Nov. 18, 1992) (noting that Rules for Division of Business Among District Judges "are adopted for the internal management of the caseload of the court[,] . . . and to see any substantive decision in a judge's acceptance or rejection of a case as related is to see something that is not there") (internal quotation marks omitted); and (c) defendants' remaining arguments are inapposite to the Rule 15 analysis and pertain instead to the appropriateness of the chosen venue;

The Court hereby accepts the above-captioned case as related and requests the assignment of the case to its calendar.

SO ORDERED.

  
SHIRLEY WOHL KRAM  
UNITED STATES DISTRICT JUDGE

Dated: New York, New York  
June 18, 2008